

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EDDIE GARCIA,

Plaintiff,

NOTICE OF MOTION

v.

Civil Action No. 1:21-cv-06393-EAW

LEWIS TREE SERVICE, INC. and ROBERT
GASTON,

Defendants.

MOVING PARTIES: Defendants Lewis Tree Service, Inc. and Robert P. Gaston.

RELIEF REQUESTED: An order dismissing the Complaint [Dkt. 1] with prejudice, and for such other relief as the Court deems just and proper.

GROUND FOR MOTION: Federal Rules of Civil Procedure 12(b)(1), (2) and (6).

SUPPORTING PAPERS: Affidavit of Robert P. Gaston, sworn to August 5, 2021 and Defendants' Memorandum of Law dated August 9, 2021. Defendants intend to file and serve reply papers.

**DATE, TIME, AND
PLACE OF HEARING:** To be scheduled by the Court. Defendant respectfully requests oral argument.

Dated: August 9, 2021

Respectfully submitted,

BOND, SCHOENECK & KING PLLC

By: 

Jessica C. Moller, Esq.
1010 Franklin Avenue, Suite 200
Garden City, NY 11530
(516) 267-6332 / JMoller@bsk.com

Peter H. Wiltenburg, Esq.
Avant Building – Suite 900
200 Delaware Avenue
Buffalo, New York 14202
(716) 416-7000 / PWiltenburg@bsk.com

Attorneys for Defendants